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SDMS DocID 2095122

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J. RANDOLPH DAVIS
(1905-1996)

WILLIAM L. PARKER
(1892-1979)

September 7, 2007

VIA FACSIMILE & U.S. MAIL (215) 814-2603

James Van Orden, Esquire
Assistant Regional Counsel
Office of Regional Counsel
United States Environmental
Protection Agency, Region 3
1650 Arch Street (3RC42)
Philadelphia, PA 19103

Re: Oceana Salvage, Inc. and Julia Malbon/Oceana Salvage Site

Dear Mr. Van Orden:

As a follow up to our telephone conversation of Wednesday, September 5, 2007, I am writing to formally advise the EPA of the Respondents having recently obtained credible evidence that a significant portion of the contamination which has been the subject of ongoing negotiations between the EPA and the Respondents toward a remediation of the subject site, was generated by the United States Navy. As you know, it appears that the primary contaminate at issue on the subject site is the residue from batteries which had previously been placed at or around the subject site. Since commencing representation of the Respondents in or about 1999, I have been aware of stories that the United States Navy had disposed of large quantities of batteries at the site historically, but had no evidence to substantiate such accounts. Recently, however, as counsel to the Respondents, I was made aware of the names of certain individuals who possess personal knowledge of historic events associated with the site.

As I shared with you over the phone, I have recently interviewed two such individuals. Both of the gentlemen in question are in their 70's and have been residents of the local Oceana area their entire lives, having been raised there and lived as adults in close proximity to the Oceana Naval Air Station and the subject site. As such, both gentlemen were also familiar with Sonny Malbon, who ran Oceana Salvage up until the time of his death, and from whom Julia Malbon, Sonny Malbon's widow, inherited this property and the problems associated with it.

BOYD & BOYD, P. C.

James Van Orden, Esquire

September 6, 2007

Page 2

In interviewing each of these gentlemen, including conducting a site visit with one of them, I learned that both gentlemen have personal knowledge of witnessing U.S. Navy trucks dump significant quantities of batteries at the entrance to the Oceana Salvage site. When the specific location was pointed out to me, it appears that the batteries were dumped, on various occasions, on the Navy property just outside the entrance of the Oceana Salvage site proper. What arrangement the Navy and Oceana Salvage may have had for the disposal of the batteries is unclear. However, what is clear is that significant quantities of the Navy's batteries were dumped and disposed of at and around the Oceana Salvage site.

The manner in which the batteries were handled also bears mentioning. The gentlemen interviewed specifically stated that the Navy trucks, which were clearly marked as belonging to the Navy, were flatbed trucks that were loaded with batteries. The batteries observed were described as being quite large, particularly in length. The trucks would back up to the location indicated, and Navy personnel would shove the batteries off of the truck onto the ground creating a pile of batteries. Accordingly, the handling of these batteries was not conducted with any regard for avoiding spillage of battery acid, nor breakage of the batteries.

Having, for the first time, tangible evidence of the Navy's having been the generator of these contaminants, the Respondents hereby request that the EPA consider the Navy's culpability for the contamination at this site and the appropriateness of the Navy's participation in the cost of the remediation to be required.

Understanding that this evidence, in the form of eyewitness observations, has, at this point, come solely from my interview of these witnesses, I can certainly appreciate that the EPA will want to substantiate these eyewitness accounts. It had been my thought, as I shared with you in our conversation, that perhaps a joint interview of the eyewitnesses, to include a representative from all parties concerned, might be a good approach. I understand from our conversation that the EPA may want to conduct its own independent investigation. Whatever the case and whatever approach is most desirable to the EPA is acceptable to the Respondents. However, again, it seems to me that by way of full disclosure a joint interview of these witnesses may be appropriate. I would appreciate your letting me know how the EPA wishes to proceed.

In any event, the two gentlemen who I have interviewed thus far, along with their contact information, are indicated below. I have spoken with these gentlemen and they understand that they will be interviewed further regarding their observations.

BOYD & BOYD, P. C.

James Van Orden, Esquire
September 6, 2007
Page 3

Mr. [REDACTED]

Mr. [REDACTED]

I am also aware of the identity of a third individual whom I will endeavor to contact to see if he does indeed possess any information relevant to this line of inquiry. Once I have spoken with this gentleman to make that determination, I will certainly pass along his contact information if he has relevant information to share.

Finally, with regard to the status of Oceana Salvage, Inc. as a growing concern, please be advised that this entity ceased doing business in October 2005 when Anolia Recycling, LLC took possession of the premises and began conducting its own business totally independent of Oceana Salvage, Inc. I have determined from the Virginia State Corporation Commission that Anolia Recycling, LLC has registered a "doing business name" under "Oceana Salvage" for continuity purposes for dealing with the public, but the entities are entirely independent of one another, and Ms. Malbon has no active role in Mr. Anolia's business. It does appear Ms. Malbon paid this year's annual registration fee to the State Corporation Commission for Oceana Salvage, Inc. and, thus, it remains active on the State Corporation Commission's rolls, but is, from a business standpoint, not operating and, in fact, ceased doing business in October 2005 with substantial outstanding liabilities which remain unpaid.

I thank you for your attention to this matter and look forward to working toward an equitable resolution of the remediation under consideration.

Most sincerely yours,



James M. Boyd

JMB/jab
cc: Julia Malbon